THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OMNI INNOVATIONS, LLC, a Washington Limited Liability company; and JAMES S. GORDON, JR., a married individual, Plaintiffs, v. PUBLISHERS CLEARING HOUSE, INC, a New York corporation; ANDREW C. GOLDBERG and JANE DOE GOLDBERG, individually and as part of their marital community; and JOHN DOES, I-X, Defendants.	No. C06-1348 MJP **PUBLISHERS CLEARING HOUSE'S ANSWER**

Defendant PUBLISHERS CLEARING HOUSE ("PCH"), by and through its attorneys, Perkins Coie LLP, answers plaintiffs' Complaint as follows:

PARTIES, JURISDICTION AND VENUE

1. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 1, and therefore denies these allegations.

2. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 2, and therefore denies these allegations.

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Dockets.Justia.com

3. In the caption and paragraph 3 of the Complaint, plaintiffs name Publishers Clearing House, Inc., a New York corporation, as the defendant. PCH admits that Publishers Clearing House, Inc. is a New York corporation. However, Publishers Clearing House, Inc. has no assets and conducts no business. The PCH operating company is Publishers Clearing House LLC, a New York limited liability company, with its principal place of business in the state of New York. PCH's answer to the Complaint assumes that this error was an oversight by plaintiffs, and PCH answers the Complaint on behalf of Publishers Clearing House LLC and as though Publishers Clearing House LLC was properly named.

4. PCH admits that Andrew C. Goldberg is President and Chief Executive Officer of Publishers Clearing House LLC, and that he and his spouse reside in the state of New York. PCH denies the remaining allegations in paragraph 4.

5. Paragraph 5 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

6. Paragraph 6 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

7. Paragraph 7 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

8. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 8, and therefore denies these allegations.

9. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 9, and therefore denies these allegations.

10. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 10, and therefore denies these allegations.

11. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 11, and therefore denies these allegations.

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12. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 12, and therefore denies these allegations.

13. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 13, and therefore denies these allegations.

14. PCH denies the allegations in paragraph 14.

15. PCH has insufficient knowledge or information to admit or to deny the allegations of paragraph 15, and therefore denies these allegations.

16. Paragraph 16 consists of legal conclusions that do not require a response; to the extent any response is required, PCH denies the same.

17. Paragraph 17 consists of legal conclusions that do not require a response; to the extent any response is required, PCH denies the same.

FIRST CAUSE OF ACTION—CAN-SPAM ACT
15 U.S.C. § 7701 *et seq.*

18. Paragraph 18 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

19. Paragraph 19 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

SECOND CAUSE OF ACTION—CEMA
RCW 19.190.010-.070

20. Paragraph 20 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

THIRD CAUSE OF ACTION—CONSUMER PROTECTION ACT
Ch. 19.86 RCW

21. Paragraph 21 is a legal conclusion that does not require a response; to the extent any response is required, PCH denies the same.

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AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to join indispensable or necessary parties under Federal Rule of Civil Procedure 19.

2 Plaintiffs' injuries and damages, if any, are the result of the fault of nonparties to this suit.

3. Plaintiffs' claims are barred by applicable statutes of limitations.

4. Plaintiffs' Complaint pleads state law that is preempted by federal law.

5. Plaintiffs' claims are limited or barred in state law.

6. Plaintiffs' claims are barred by the equitable doctrines of estoppel, waiver, laches and unclean hands.

7. Plaintiffs have failed to state a claim upon which relief can be granted.

PRAYER FOR RELIEF

Therefore, defendant PCH requests that the Court:

1. Enter judgment in favor of PCH and against plaintiffs on all claims in plaintiffs' Complaint;

2. Award PCH its reasonable attorneys' fees and costs of suit; and

3. Such other and further relief as this Court deems just.

DATED: December 11, 2006

PERKINS COIE LLP

By: */s/ Elizabeth L. McDougall*
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Attorneys for Defendant
Publishers Clearing House, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2006, I filed the foregoing PUBLISHERS CLEARING HOUSE'S ANSWER with the Clerk of the Court using the CM/ECF which will notify the parties listed below:

Douglas E. McKinley, Jr.	___	Via hand delivery
Law Office of Douglas E. McKinley, Jr.	___	Via U.S. Mail, 1st Class, Postage Prepaid
P.O. Box 202	___	Via Overnight Delivery
Richland, WA 99352	___	Via Facsimile
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Attorneys for Plaintiffs		

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1325 Fourth Avenue, Suite 940	___	Via Overnight Delivery
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Attorneys for Plaintiffs		

DATED this 11th day of December, 2006.

/s/ Elizabeth L. McDougall
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